



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**JOHN BEN SHEPPERD
ATTORNEY GENERAL**

July 16, 1954

Hon. Robert S. Calvert
Comptroller of Public Accounts
Austin, Texas

Letter Opinion No. MS-142
Re: Employee lists required
by Senate Bill No. 2, Acts
53rd Legislature, First Called
Session

Dear Mr. Calvert:

You have requested an opinion on the meaning of the last sentence of Section 4 of Senate Bill No. 2, Acts of the First Called Session of the 53rd Legislature, the bill authorizing general pay raises for state employees during the fiscal year beginning September 1, 1954. Section 4 reads as follows:

"Sec. 4. The Comptroller is authorized to promulgate rules and regulations to carry out the provisions of this Act. Upon request of the Comptroller, each State Department or Agency shall certify to the Comptroller, on forms prescribed by him, the amounts of money required to provide the increases authorized by this Act for that Department or Agency. Provided further that each State Department or Agency shall submit to the Comptroller the name of every employee regardless of his or her type of employment who otherwise comes under the provisions of this Act."

Your specific questions are:

- (1) What employees are to be listed?
- (2) As of what date is the list to be submitted to the Comptroller?

Senate Bill No. 2 authorizes a raise in salary, with certain exceptions, for all employees whose salaries or wages are payable out of appropriations contained in the General Appropriation Act for the current biennium (Chapter 31, Acts 53rd Legislature, Regular Session, 1953). The authorized increases are not mandatory and may be granted or withheld at the discretion of the appropriate department head or governing board. It is our opinion that the last sentence of Section 4 requires each department or agency to furnish to the Comptroller the name of every employee who, by virtue of being granted a raise payable out of an appropriation made in Senate Bill No. 2, is thereby brought under the

provisions of the Act. We think the purpose of the word "otherwise," which can have the meaning "in other ways" or "in other respects," is to emphasize the intent that, regardless of the type of employment, the names of all employees coming under the Act are to be submitted. In one sense, every employee covered by Articles I, II, III and V of the General Appropriation Act who does not come within one of the exceptions contained in Senate Bill No. 2 "otherwise comes under the provisions of" that Act, and accordingly the view could be taken that the names of all employees not within the exceptions must be submitted to the Comptroller. However, we think the intended meaning is that an employee is to be considered as coming under the provisions of the Act only if he is receiving a raise in accordance with its terms.

In answer to your second question, it is our opinion that the name of each employee who receives a pay raise under Senate Bill No. 2 should be submitted to the Comptroller prior to payment of the salary increase to the employee. Under his authority to promulgate rules and regulations to carry out the provisions of the Act, the Comptroller is authorized to fix the time for submission of the lists and to prescribe the manner in which they are to be submitted. Inasmuch as each State department or agency submits a payroll to you each month, it occurs to us that those receiving the pay raise could be noted thereon.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By

Mary K. Wall
Assistant

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